

Assembly Constitutional Amendment

No. 7

Introduced by Assembly Member Hernandez

December 22, 2008

Assembly Constitutional Amendment No. 7—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 31 of Article I thereof, relating to public education.

LEGISLATIVE COUNSEL'S DIGEST

ACA 7, as introduced, Hernandez. Public education.

The California Constitution prohibits the state from discriminating against, or granting preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

This measure would delete the Public School System, as defined, and the University of California, from the scope of this constitutional prohibition.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

- 1 *Resolved by the Assembly, the Senate concurring,* That the
- 2 Legislature of the State of California at its 2009–10 Regular
- 3 Session commencing on the first day of December 2008, two-thirds
- 4 of the membership of each house concurring, hereby proposes to
- 5 the people of the State of California, that the Constitution of the
- 6 State be amended as follows:
- 7 That Section 31 of Article I thereof is amended to read:

1 SEC. 31. (a) The State shall not discriminate against, or grant
2 preferential treatment to, any individual or group on the basis of
3 race, sex, color, ethnicity, or national origin in the operation of
4 public employment, ~~public education~~, or public contracting.

5 (b) This section shall apply only to action taken after the
6 section's effective date.

7 (c) Nothing in this section shall be interpreted as prohibiting
8 bona fide qualifications based on sex which are reasonably
9 necessary to the normal operation of public employment, ~~public~~
10 ~~education~~, or public contracting.

11 (d) Nothing in this section shall be interpreted as invalidating
12 any court order or consent decree which is in force as of the
13 effective date of this section.

14 (e) Nothing in this section shall be interpreted as prohibiting
15 action which must be taken to establish or maintain eligibility for
16 any federal program, where ineligibility would result in a loss of
17 federal funds to the State.

18 (f) For the purposes of this section, "State" shall include, but
19 not necessarily be limited to, the State itself, any city, county, city
20 and county, ~~public university system, including the University of~~
21 ~~California, community college district, school district~~, special
22 district, or any other political subdivision or governmental
23 instrumentality of or within the State. *For purposes of this section,*
24 *"State" does not include the Public School System, as defined in*
25 *Section 6 of Article IX, or the University of California.*

26 (g) The remedies available for violations of this section shall
27 be the same, regardless of the injured party's race, sex, color,
28 ethnicity, or national origin, as are otherwise available for
29 violations of then-existing California antidiscrimination law.

30 (h) This section shall be self-executing. If any part or parts of
31 this section are found to be in conflict with federal law or the
32 United States Constitution, the section shall be implemented to
33 the maximum extent that federal law and the United States
34 Constitution permit. Any provision held invalid shall be severable
35 from the remaining portions of this section.